

RICHLAND COUNTY COUNCIL

SOUTH CAROLINA

SPECIAL CALLED MEETING

March 28, 2017
Immediately following the
Zoning Public Hearing
County Council Chambers

In accordance with the Freedom of Information Act, a copy of the agenda was sent to radio and TV stations, newspapers, persons requesting notification, and was posted on the bulletin board located in the lobby of the County Administration Building

CALL TO ORDER

Mr. Pearce called the meeting to order at approximately 7:36 PM

POINT OF PERSONAL PRIVILEGE – Ms. Dickerson recognized that her daughter was in the audience.

ADOPTION OF AGENDA

Mr. Manning moved, seconded by Mr. Malinowski, to adopt the agenda as published. The vote in favor was unanimous.

RICHLAND COUNTY RECREATION COMMISSION

Mr. Manning moved, seconded by Mr. Rose, that the funds withheld from Richland County Recreation Commission be released and that County staff work with RCRC to enter into the Memorandum of Understanding (MOU) as sent to Council via email on Friday, March 24, 2017, with the addition of the updated Article 3. Recommendations, subsection "i.", which reads [The budget subcommittee should quarterly review budget performance with RCRC executive staff.] as was emailed to County Council on Monday, March 27, 2017. Additionally, with regard to Article 2. Requirements, subsection "f." that reads [Richland County Recreation Commission understands that failure to comply to this requirement will result in non-appropriation of non-statutory required funds.] That the wording "with consent of County Council" be inserted. Finally, Council will give serious consideration to cut FY17-18 funding, as allowable by State Statute, if for any reason the Richland County Recreation Commission does not negotiate in good faith the actual signing of the above referenced MOU as they have stated to Councilman Jim Manning, a Council appointed RCRC Liaison, they agreed to the MOU in concept and principal.

Ms. Dickerson: Properly moved and seconded...any discussion? Mr. Malinowski...

Mr. Malinowski: Madam Chair with all that detail...not having it in front of me. I'll vote no so I can review that. There was an awful lot of technical stuff in there. And



Committee Members Present

Joyce Dickerson, Chair
Bill Malinowski, Vice Chair
Calvin "Chip" Jackson
Norman Jackson
Gwendolyn Davis Kennedy
Paul Livingston
Jim Manning
Yvonne McBride
Dalhi Myers
Greg Pearce
Seth Rose

Others Present:

Gerald Seals
Kimberly Roberts
Daniel Driggers
Michelle Onley
Brandon Madden
Larry Smith
Beverly Harris
Kevin Bronson
Janelle Ellis
Sandra Yudice
Kecia Lara

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also, I'd like to point out in the original motion that withheld the funding, it said the audit would be funded out of the 7 mills that the County withheld. So in releasing those funds we need to make sure that whatever the cost of that audit was that it is withheld.

Mr. Manning: Point of Clarification...I would think that's a given.

Ms. Dickerson: Is this the motion we have right here that's been passed out.

Mr. Manning: That's what I just read...yes ma'am.

Ms. Dickerson: This is the motion that was just crafted...Ms. Myers, Mr. Livingston

Ms. Myers: Madam Chair, I'd offer a friendly amendment. There have been some slight changes to the MOU, including a new recital. And some corrections...I'd ask that those be included with Mr. Manning's motion...unless he...

Mr. Manning: I can't accept that friendly amendment. I have to go with what was sent last Friday, updated Monday, and what I was just handed on my desk a few minutes ago...I've got to go with what was sent and what was put before us. And that's my motion. Thank you.

Ms. Dickerson: Mr. Livingston...

Mr. Livingston: Madam Chair, we received today...regarding an ordinance amending the FY16 Recreation Commission agency budget in order to increase it to the requested mills. Is that technicality we need to deal with or can we pass this motion without having to amend the ordinance? Has that been cleared yet? I'm sorry I didn't have my mic on...

Ms. Dickerson: Did you hear that Mr. Seals?

Mr. Seals: I did and I think...Madam Chair and Mr. Livingston, I think that it is correct. I think it is a technicality, and so you would need to do something so that the budget itself could be amended.

Mr. Livingston: So in order to take this action, it is your opinion, that we need to do an ordinance amendment.

Mr. Seals: That is correct...a budget amendment.

Ms. Dickerson: A budget amendment.

Mr. Livingston: Now...but this motion does not include one.

Mr. Manning: No sir.

Mr. Seals: I have not read that motion. I don't think they're incompatible in terms of the intent. But to carry out the release of the funds, you have to amend the budget so that the fiscal officer can in fact now cut the appropriate check or checks so that what the motion requires is done.

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Mr. Livingston: So in order to release those funds....and this is for the attorney and the Administrator...are ya'll suggesting that...we amend the ordinance. Is that a three readings and public hearing amendment? Or...what are you really suggesting here.

Mr. Smith: Mr. Livingston that would be three readings and a public hearing...yes...to amend the budget.

Mr. Livingston: So in order to release the remaining...it's your opinion...to legally release the remaining funds we must amend the budget.

Mr. Smith: Yes, sir. Based on the motion that was made at the time that you went to 5 mills...I understand it was an action of Council and you withheld any millage above the 5 mills. In order to now get you to the point where you release the additional funds, you would have to do a budget amendment to do that. Based on my understanding of what the motion was that you passed initially.

Ms. Dickerson: Does that conclude your remarks, Mr. Livingston?

Mr. Manning: May I get a point of clarification?

Ms. Dickerson: Point of clarification, Mr. Manning.

Mr. Manning: The parliamentarian is talking about the motion, but we did an ordinance. It wasn't a motion. The budget is an ordinance.

Mr. Livingston: Right, but they're saying...the question was whether or not you had to amend that ordinance.

Mr. Manning: Yeah, but he's referencing a motion.

Mr. Smith: Mr. Manning is correct. The budget is an ordinance, but that part of the budget that relates to the Recreation Commission...there was a motion made as it relates to that portion of the budget. So that's what I'm referring to. And that motion was a part of the packet that you had last week...and again it's not a part of the packet tonight for whatever reason, but I think Mr. Pearce had made a motion about going up to 5 mills and not anything beyond that.

Mr. Manning: I'm still in my clarification. So if we go and look in the ordinance book...the ordinance has that motion in the ordinance?

Mr. Smith: I don't know that it has that motion in the ordinance.

Ms. Dickerson: That complete your remarks? Mr. Livingston still had the floor.

Mr. Livingston: Just one other thing for clarification. How would that differ from...you go in the budget where we're talking about individual appropriations for Hospitality Tax that we approve a certain amount in the budget and we're able to come back with one reading and amend that because its already appropriated. How does this differ from that?

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Mr. Smith: In discussing this matter with the Finance Director...and again Mr. Livingston, I apologize we don't have the documents in front of us. But it's my understanding that what the Council did, as it relates to the Recreation Commission's budget, is you approved 5 mills, which was the statutory minimum requirement under the law that you could approve. Back when you approved this particular issue in relation to the budget. And you basically froze, and those were the words that were used in the motion, anything above the 5 mills. That's my understanding of...

Mr. Livingston: It wasn't contingent upon anything in the budget.

Mr. Manning: It was froze...

Mr. Smith: And again, I don't have the language in front of me. I'm trying to go from memory. I think it was contingent upon the Recreation Commission giving an audit...I believe...

Mr. N. Jackson: I have the motion in front of me.

Mr. Smith: I'm sorry. I do have it and it says "once the final millage for the Recreation Commission...is determined by a vote of Council, all funds above the mandatory five [5] mills shall remain frozen until such time as the Recreation Commission provides written documentation to Richland County Council that an independent review (i.e., an audit) confirms that funds provided by Richland County...are being utilized solely for the benefit of promoting recreational opportunities for the citizens of Richland County..." Then there was a substitute motion that was made by Mr. Jeter. And that motion was, "Mr. Jeter made a substitute motion, seconded by Ms. Dickerson, to fund the audit out of the 7 mills the County is withholding instead of the 5 mills the Recreation Commission will be receiving." So it appears to me, that what the Council was doing at that point was saying we'll fund the Recreation Commission up to the 5 mills...anything above that you were not going forward with...to give them anything above that at that time.

Ms. Dickerson: Ok.

Mr. Smith: And that's the way I read what you all were trying to do.

Ms. Dickerson: Mr. Livingston.

Mr. Livingston: I'm good for now, Madam Chair.

Ms. Dickerson: I'm going to give the order, in which I have you all to speak. Next I have Mr. Norman Jackson...Mr. Manning did you have a point...Mr. Manning and then Mr. Pearce.

Mr. N. Jackson: Thanks, Madam Chair. And I disagree with the County Administrator with what he's saying and how we do it. On June 9, 2016, Third Reading of the budget...while he just read it, my understanding, not the substitute motion, the motion that was passed. You talk about a substitute motion. Was the substitute motion passed, or the original motion passed?

Mr. Smith: And again I can...the substitute...these are...these are...summarized minutes so these are not verbatim and it just says that when Mr. Jeter made his substitute motion that each Council member all voted unanimously for the motion.

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Mr. Jackson: My understanding of the motion is that once an audit was given to us that showed that the Recreation Commission provided benefits for promoting recreational activities to the citizens of Richland County...once they received the audit the funds would be released. I don't think you even need a motion to release the funds. It says all funds above the 5 mills would be held frozen until we receive an audit. It didn't talk about a Memorandum of Understanding. It didn't talk about anything else. So for me to hear now that we have to do three readings which takes about 2 months, and a budget amendment. It says to freeze the amount above the 5 mills until we receive an audit. Therefore, I can't support all these other things that's added to it to suppress or hold up funds that is to be released to these children. And they may not have a summer because we decided we disagreed with the Legislative Delegation and what they're doing and we want control of the Recreation Commission. So we're developing a MOU. Furthermore, the Recreation Commission do not have a commission at this point. And you want the staff to sign something without the presence of a commission. I don't think we can do that. Because they may not agree, so it's inappropriate for us to develop a MOU and ask the staff of the Recreation Commission sign this document and they have to live up to that document or we will receive the funds. In addition to that, in 2008 we passed a \$50 million bond and we added several facilities to the Recreation Department. And those buildings and those facilities have to be staffed. That added above the 5 mills. So we're saying now that if we do not have control of the Recreation Commission, we're going to close all these buildings and all these services because we have no control. We passed that bond and we gave it to them to be staffed and managed. So I have a problem with that. I think tonight the only thing we have to do is approve, release the funds, based on the motion on June 9th that was passed. And it's very clear that you do not need a budget amendment. And my motion is to release the funds. And that's it.

Ms. Dickerson: Mr. Manning and then Mr. Pearce.

Mr. Manning: Thank you, Madam Chairman. I think there was 1 or 2 characterizations of this motion just in...by my colleague passionately speaking toward...that unfreezing is not a matter of three readings and an ordinance change and all that...which I totally agree with. And again, this motion is clearly talking about that the money would be released now and that the MOU would be worked on in good faith. So his kind of characterization that it wouldn't be release that it wouldn't be released until its signed is not quite right per the motion that I made.

Ms. Dickerson: Mr. Pearce.

Mr. Pearce: I'm going to pass, Madam Chair.

Ms. Dickerson: Is there any further discussion on this item? Mr. Seth, you have the floor.

Mr. Rose: You'll have to bear with me, I'm losing my voice. I can only speak for myself obviously, but I'm going follow the advice of our county attorney and County Administrator. I also want these funds released, but I can't sit here and vote against what our staff and the man we hired to give us legal advice is telling us. I wish we could release the funds tonight, but because of their advice I can't. So that's the first thing I want to say. The second thing is, we have this very detailed audit that was done. It gives very high level recommendations on how to have the Recreation Commission run in a much better light, so taxpayer dollars are spent wisely. And in talking with Mr. Manning, his conversations with the Recreation Commission, they are agreeable to those suggestions that are in the audit. And so I will vote to release the funds, but only if the MOU is agreed to. And I have no reason to believe that the new members and the new staff wouldn't want,

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and will not be very judicious on how they spend taxpayer money. So I'm going to support the motion Mr. Manning submitted.

Ms. Dickerson: Are there any further...oh, Mr. Jackson you have a second time. This is Mr. Norman Jackson.

Mr. N. Jackson: Thank you very much, Madam Chair. And just to mention...the audit was just mentioned and I heard my colleague to the right talk about the deficiencies of the Recreation Commission from the audit. We had an audit. We had three workshops. There was nothing wrong with the Recreation Commission. Then we have an amended audit. And I mean all these problems with the Recreation Commission. This commission has been certified that...accreditation of parks and recreation agencies nationwide. They're the first recreation commission in the State to be certified. They were re-certified again in 2016. The agency used five core elements to judge the confidence of the Recreation Commission: operation, programming, human resource, finance, and communication. In the State of South Carolina, there are three recreation commission agencies that are certified: one in Greenville, Richland County and Charleston. So what they went through in certifying these agencies with a 152-point scoring and they scored 151 out of 152 in 2010 and 2016. And I'm hearing now from an audit that they have major problems. I have a concern with the audit. I have no faith in an audit that came and gave a recommendation and then 2 weeks later change it and amended the audit and have something totally different. So I have concern with that, but again as I'm saying...right...we have...does the School District I and II or any of the other agencies have a MOU....is it consistent with other agencies to have a MOU on how to spend their money. Maybe legal can tell me something...or the Administrator.

Mr. Manning: Madam Chair, I move the question.

Mr. N. Jackson: Well I'm speaking...I'm not finished yet. You can't ask for the question while I'm speaking. I'm not through. What I'm saying is I want fairness for all agencies. I don't think one agency should be subjected to all this while the others are not. That's my concern. I just want fairness. I'm just asking a question if other agencies are subjected to this... the school board does not answer to us, they answer to the public. They have an election. They answer to the public. The Legislative Delegation chooses the commissioners for the Recreation Commission. They do not answer to us. But they are competent citizens also. So I have no problem whether the General Assembly, Legislative Delegation or whoever chooses those people. They are citizens and I have faith in them and what they are supposed to do. I'm not going to judge them. My concern is that the children should not suffer because we disagree with the Legislative Delegation and withhold those funds. Based on the motion, we do not need three readings and a public hearing. We took the funding from the Recreation Commission money...budget and fund the audit and we're supposed to release that money without any MOU. That's inappropriate. That was not the motion. I'm going by the motion that was sent to us...right...and my discussion, my debate and my reason is based on the motion we received. That's it.

Ms. Dickerson: Did I hear anyone...someone call for the question?

Mr. Pearce: Clarification, Madam Chair...

Ms. Dickerson: ...this is...

Mr. Pearce: We have one motion on the floor, is that correct?

Ms. Dickerson: That's exactly right.

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Mr. Pearce: It's Mr. Manning's.

Ms. Dickerson: Exactly.

Mr. Pearce: OK.

Ms. Dickerson: I believe I heard someone call for the question.

Mr. Manning: Call for the question.

Ms. Dickerson: I hear call for the question. Do I hear a second?

Mr. Rose: Second.

Mr. Manning: I withdraw.

Ms. Dickerson: I'm going to...since this is such an important item. I am going to allow discussion because this is it. Mr. Livingston, you're recognized.

Mr. Livingston: I support trying to move forward, but I'm a little puzzled by the fact that my attorney and Administrator are telling me that if I did that I'm doing something illegal in a sense. I'm violating my ordinance and that kind of thing, so that's serious. Is it possible...and of course, it won't hurt anything...just for my own sake...and this is for our attorney. Is it possible for us to pass Mr. Manning's motion and still pass this ordinance for First Reading? It doesn't hold up anything now, but I'm simply saying, but allow me to at least move forward on the ordinance too.

Mr. Smith: Yes, and I think that's the reason you were given the ordinance by title only. If you wanted to move forward with the release, you could, in conjunction with Mr. Manning's motion, give the ordinance First Reading by Title Only, to move forward.

Mr. Livingston: But it doesn't stop you from moving...

Mr. Smith: Those two things are consistent.

Ms. Dickerson: Mr. Manning, I need to ask one question before I recognize you. Mr. Seals...Mr. Smith...we did 5 mills. How many more mills is it? I'm hearing 7 and I'm hearing 5...what do we need to do? Two more...is that it to be consistent with the original...how many total mills do we have?

Mr. Smith: I think it's a total of 12.

Ms. Dickerson: Twelve and we've done 5.

Mr. Smith: So that means we have 7 more to be released. And that is where we are talking about having an amendment, so it will go through three readings and a public hearing to release those other 7 to equal the 12. Is that correct?

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Mr. Seals: That is correct, Madam Chair. Can I just say one thing? We certainly don't want to do anything that tries to stop you from doing what it is you want to do. One, I said it's a technicality. Two, the technicality turns on the term frozen...is in budget language, means very specifically, you did not...those funds have to be released in order to make the payment. And you did not do that. You froze those funds. And those funds...the way Council takes action is by amending the budget. So it's not in our...we're not trying to slow the process down. That term is what caught my eye. As you know, I was not here. But it is that term that provides context.

Ms. Dickerson: I think I had Mr. Manning because I interfered. And you're answering my question...so Mr. Manning...you answered my question. Thank you.

Mr. Manning: Thank you, Madam Chair. You know the little bit of concern I'm having is that...I don't know where we get a second opinion right now and we're getting an opinion...and I don't know whether it's an opinion or advice to be honest with you. And the opinion is based on what I heard...well I didn't bring the documents and somebody gets a document handed and we're going by that with opinion. Now as a point of clarification, generally when we do a budget amendment and three readings and a public hearing it's because that money is not in the bottom line of the budget. And we generally take it out of the reserve fund...the General Fund. So I guess that's a point of clarification. When we passed the budget, was the bottom line on the budget short and we grew the fund balance and we're now doing these three readings and a public hearing to lower our fund balance and increase what was the bottom line of the ordinance amount we passed. Because if the bottom line of the ordinance that we passed has that money in it, then we wouldn't need...what we thought was frozen...apparently not having anyone on staff to explain to us this thinking about what frozen means. That may answer the question...because I thought when we passed the budget and the ordinance that in the entire County budget that funding was in there and frozen. That we didn't grow our fund balance and now we're going to decrease the fund balance with three readings and a public hearing. So I think that would be the way for us to figure out what was the intent of the Council.

Mr. Seals: Madam Chair.

Ms. Dickerson: Mr. Administrator...Mr. Seals...

Mr. Seals: In the interest of...perhaps the way to do this is the Administrator will say that his understanding of the term frozen is inconsistent with the way Council uses that term, so we will make sure we make the necessary adjustment to the fund balances. And if that is the case, then it seems to me you could proceed. And that we'll take care of the error we made and that then allows you all to proceed.

Ms. Dickerson: Ok...and I have Mr. Livingston.

Mr. Livingston: That solved my concerns.

Ms. Dickerson: So you're ok. Is there any further discussion on this item?

Mr. N. Jackson: So let me be clear...clarification...we're saying that we don't need three readings and a public hearing.

Mr. Manning: That's correct.

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Mr. N. Jackson: That's what I'm hearing, correct?

Mr. Seals: You're saying...what is happening...the Administrator's definition of frozen is incorrect. And whatever mistake we made as a staff, with the ordinance, that will be corrected because it was a mistake. And we'll declare it as such and the attorney will know what to do in terms of carrying that out. And, therefore, we can move forward.

Ms. Dickerson: Mr. Smith, are you putting your seal of approval on this. What Mr. Seals just said?

Mr. Smith: Yes, Madam Chair.

Ms. Dickerson: So we can proceed.

Mr. Smith: I think we'd indicated earlier that this was a technicality that we were trying to address.

Ms. Dickerson: So basically, we're proceeding with the motion on the floor that Mr. Manning read earlier. Is that correct? And it was properly moved and seconded. So all in favor of Mr. Manning's motion, that we have in front of us, signify by saying aye...do we need a show of...we need a show of hands on this particular one. All in favor signify by raising your right hand.

Ms. Onley: In favor – Pearce, Rose, C. Jackson, Dickerson, Livingston, Kennedy, Myers, Manning, McBride

Ms. Dickerson: All opposed.

Ms. Onley: Opposed – N. Jackson, Malinowski

Ms. Dickerson: Do I need a reconsider...

Mr. C. Jackson: Madam Chair

Mr. N. Jackson: Move to reconsider.

Ms. Dickerson: I have a motion to reconsider.

Mr. Manning: Second.

Ms. Dickerson: All in favor of reconsidering the motion, signify by saying aye...opposed...the motion carries. So with that...

Mr. N. Jackson: The funds will be released to the Recreation Commission...immediately...

Ms. Dickerson: Yes.

Mr. N. Jackson: I just want to make that clear.

ADJOURNMENT

The meeting adjourned at approximately 8:05 PM.

Joyce Dickerson, Chair

Bill Malinowski, Vice-Chair

Calvin "Chip" Jackson

Norman Jackson

Gwendolyn Davis Kennedy

Paul Livingston

Jim Manning

Yvonne McBride

Dalhi Myers

Greg Pearce

Seth Rose

The Minutes were transcribed by Michelle M. Onley, Deputy Clerk of Council